



CHARTER COMMITTEE AGENDA REPORT

MEETING DATE: SEPTEMBER 19, 2013

ITEM NUMBER:

SUBJECT: PROPOSED CHARTER PROVISIONS

DATE: SEPTEMBER 23, 2013

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BACKGROUND

Charter Committee members have provided proposed language governing prevailing wages for consideration by the Charter Committee to include in the proposed charter. The following is an analysis of the provision proposed.

DISCUSSION

The proposed language is the following:

Proposal 1

The City exempts locally funded public works projects from mandated prevailing wage unless prevailing wage is compelled by the terms of a federal or state grant or is otherwise funded from a source that requires prevailing wage; the public work is a matter of statewide concern; or the payment of prevailing wage is separately authorized by the City Council, because the project is of a complexity and nature that the public interest would be served by requiring prevailing wage.

Proposal 2

Contractors awarded a public project that does not require prevailing wage shall:

- 1.) Limit the mark up for themselves, contractors and subcontractors to no more than 10% over the actual paid cost of materials and the actual paid costs of labor;
- 2.) Disclose the overhead costs and profit on the contract; and
- 3.) Provide certified payroll records to the City for these contracts.

4.) Costs of materials are defined as the actual amount paid for the materials less any discounts, rebates or value of free bonus materials.

Proposal 1

Proposal 1 excuses the City from paying prevailing wages unless prevailing wages are otherwise required under state or federal law. Proposal 1 gives the City Council the authority to pay prevailing wages if the project is of a complexity and nature that the public interest would be served by requiring prevailing wage. Proposal 1 does not appear to give the City Council discretion to pay prevailing wages other than if prevailing wages are separately authorized. Instead of limiting the City Council's decision to pay prevailing wages, the Charter Committee can also consider leaving the City Council with the discretion to decide whether or not it will pay prevailing wages where they are not otherwise required under state or federal law.

Proposal 2

Proposal 2 appears to address a scenario where a charter provision is in place that exempts the City from paying prevailing wages. In that case, Proposal 2 attempts to limit the contractor's potential increased profit in not paying prevailing wages in a number of ways. First, it limits the "profit" charge or mark-up a contractor passes on to the City to ten percent (10%) for materials. And second, it requires the contractor to disclose profits and expenses including payroll. There is some concern that first provision would lead to potential litigation on the basis that it is outside the City's discretion to regulate.